IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4245 OF 2006

Maya @ Mavaji Namdeo Hatmode ..Applicant

Versus

State of Maharashtra .. Respondent

Mr.Kuldip Patil for applicant

Mr.Y.M.Nakhwa, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 8th December 2006.

P.C.

. Applicant has been arrested in connection with C.R.No.417 of 2006. Offences alleged are punishable under sections 326, 354, 452 and 509

of I.P.C. He has been arrested in November 2006 and has is presently remanded to magesterial custody. He has applied for bail before J.M.F.C. which was rejected. Thereafter, after investigations being complete, he applied for being enlarged on bail, which application came to be rejected by the learned Additional Sessions Judge.

2. Mr.Patil submits that this Court had called for the medical certificate/opinion with regard to the injuries sustained by the complainant. He states that the other offences are bailable. As far as section 326 is concerned, it will not be attracted, prima facie, because the offence of Grievous Hurt as mentioned therein has to be seen on the touch stone of nature of Injuries specified in Section 320 of I.P.C.. In the present case assuming that there is some visual disability it is not to the extent indicated in the said section and, therefore,

prima facie that section is inapplicable.

3. The prosecution has filed its report in the trial court, contents of which are reiterated before me. Mr.Nakhwa, A.P.P. submits that the complainant and accused are neighbours. If the applicant is released on bail, prosecution witnesses are likely to be threatened. They are all ladies. Investivations are not fully over and, therefore, at this stage, he should not be released on bail.

4. Having perused the statement of the complainant and her daughter so also considering the contents of medical report/opinion, prima facie, there is some substance in the contention of Mr.Patil. He submits that the only apprehension expressed by the prosecution so also by the Court below can be taken care of by imposing appropriate conditions. Applicant is ready and willing to stay outside the limits of

village Girwale for a period of 3 months from today. Thereafter, he shall abide by such directions as are issued by the trial court. Hence, following order:-

i) The applicant arrested in connection with C.R.No.417 of 2006 registered with Panvel Town Station shall be enlarged on bail in the sum of Rs.10,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant for a period of three months shall not reside within the limits of village Girwale. He will report to the police station nearest to his place of residence once a week on every Saturday between 5.00 p.m. and 8.00 p.m.. After this period, he shall abide by the directions of the trial

court.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate

with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)

(S.C.Dharmadhikari, J)